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No. ..., October Term, 1962

In The

Supreme Court of the United States

SAMUEL VOLTAGGIO,

Appellant,

vs.

NICHOLAS V. CAPUTO, COUNTY CLERK, COUNTY OF ESSEX, STATE OF NEW JERSEY and ROBERT J. BURKHARDT, SECRETARY OF STATE, STATE OF NEW JERSEY,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY.

JURISDICTIONAL STATEMENT.

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On Appeal from the United States District Court for the District of New Jersey.

JURISDICTIONAL STATEMENT.

Appellant, Samuel Voltaggio, appeals from the Order of a Three Judge Court of the United States District Court, District of New Jersey, entered on September 18th, 1962, dismissing appellant's complaint and denying the relief prayed for therein. Appellant submits this statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that substantial federal questions are presented.

OPINION BELOW.

The opinion of the Three Judge Court of the United States District Court, District of New Jersey is not yet officially reported, nor is it unofficially reported.

JURISDICTION.

This is a suit brought in the United States District Court, District of New Jersey, by appellant, Samuel Voltaggio, to have seven (7) sections of Title 19, *Elections*, N. J. Rev. St., declared unconstitutional and void under the Constitution of the United States, to have the defendants restrained from enforcing the aforementioned sections and for such other relief as the Court may find just. This action is brought pursuant to Title 28, United States Code, Section 1343 (3) which confers original jurisdiction on the Federal District Court.

> "* * * To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress provided for equal rights of citizens or of all persons within the jurisdiction of the United States; * * *" 71 Stat. 637 (1957).

On September 14, 1962, a three judge court, convened pursuant to Title 28, U. S. Code, Section 2281, and on that same date, at 3:45 P. M., filed an order dismissing the complaint and denying the relief sought therein. Said order was entered on September 18, 1962. A Notice of Appeal was filed in the Federal District Court, District of New Jersey, on September 17, 1962.

The jurisdiction of the Supreme Court of the United States to review the decision of the Federal District Court

on appeal is conferred by Title 28, United States Code, Section 1253.

The following decisions sustain the jurisdiction of the Supreme Court of the United States to review the decision on appeal in this case:

Baker v. *Carr*, 369 U. S. 186 (1961);
Florida Lime & Avacado Growers, Inc., v. *Jacobsen*, 362 U. S. 73, 80 S. Ct., 568, 4 L. Ed. 2d 568 (1960);
MacDougall v. *Green*, 335 U. S. 281, 69 S. Ct. 1, 93 L. Ed. 3 (1948).

The following statutes are involved in this appeal, all of which are printed in Appendix "A" to this Statement:

New Jersey Laws of 1930, Chapter 187, sec. 113, p. 721; N. J. Rev. St. 19:13–4.

New Jersey Laws of 1930, Chapter 187, sec. 139, p. 733 (as amend. L. 1947, c. 104, p. 520, sec. 2; N. J. Rev. St. 19:14–6.

New Jersey Laws of 1930, Chapter 187, sec. 141, p. 735 (as amend. L. 1951, c. 315, p. 1120, sec. 1); N. J. Rev. St. 19:14–8.

New Jersey Laws of 1930, Chapter 187, sec. 142, p. 736 (as amend. L. 1951, c. 315, p. 1121, sec. 2); N. J. Rev. St. 19:14–10.

New Jersey Laws of 1930, Chapter 187, sec. 144, p. 737 (as amend. L. 1942, c. 50, p. 281, sec. 7; L. 1948, c. 2, p. 40, sec. 21; L. 1949, c. 207, p. 677, sec. 1) N. J. Rev. St. 19:14–12.

New Jersey Laws of 1935, Chapter 302, sec. 6, p. 949, suppl. to L. 1930, c. 187, p. 671 (as amend. L. 1940, c. 137, p. 301, sec. 1; L. 1941, c. 163, p. 519, sec. 1; L. 1944, c. 127, p. 350, sec. 1; L. 1945, c. 70, p. 348, sec. 1; L. 1946, c. 17, pp. 48, 50, secs. 1, 2; L. 1948, c. 240, p. 1081, sec. 1) N. J. Rev. St. 19:49–2.

QUESTIONS PRESENTED.

1. Whether a state statute, which requires all elective candidates, to the office of member of the House of Representatives, to use a political slogan on the official general election ballot, but denies an independent candidate the right to use a slogan which consists in a noun, pronoun or derrivative of the name of a political party, recognized by statute, denies the independent candidate of the equal protection of the law which is guaranteed by the 14th Amendment of the Constitution of the United States?

2. Whether a series of state statutes awarding first choice of position on the official ballot to political parties, in a General Election of candidates to the House of Representatives, and subsequent second choice positions to an independent candidate:

(a) exceeds the powers delegated to the States by U. S. Const., Art. I, Sec. 4, to regulate the manner of such elections?

(b) denies the independent candidate of the equal protection of law guaranteed by the 14th Amendment of the Constitution of the United States?

(c) deprives the independent candidate of his liberty without due process of law and thereby violates the 14th Amendment of the Constitution of the United States?

3. Whether a state statute, delegating to a County Clerk discretion to select ballot positions among independent candidates in a General Election of candidates to the House of Representatives, violates the Constitution of the United States in that it:

(a) exceeds the powers delegated to the states to regulate the manner of election by re-delegating that power?

(b) delegates discretion to a ministerial officer?

(c) fails to set forth a sufficient standard to limit the scope of the authority delegated to the County Clerk?

STATEMENT OF THE CASE.

Samuel Voltaggio, the appellant, of No. 358 South Orange Avenue, South Orange, New Jersey, is a resident in the 11th Congressional District of the State of New Jersey. He is currently a candidate for election to the House of Representatives, as Representative from his district, having been nominated by direct petition in accordance with Chapter 13, Art. 2 of Title 19, New Jersey Revised Statutes.

Within the time so provided, plaintiff filed his petition with the defendant, Robert J. Burkhardt, the Secretary of State, of the State of New Jersey. With this petition was filed a request that, his principles or slogan, "Life Long Democrat", be printed below his name on the official ballot of the General Election to be held on November 6, 1962. This request was denied by Secretary Burkhardt. A similar request and demand was sent to Secretary Burkhardt, by mail, who again refused to comply therewith, resting his decision on N. J. Rev. St. 19:13-4 which prohibits a candidate from using as a principle or slogan the name of a political party or a noun, pronoun or derivative thereof, which is entitled to participate in the primary election. The Democratic Party was so entitled to participate in the Primary Election and it was upon this fact that Secretary Burkhardt rested his denial.

Upon a review of N. J. Rev. St. 19:14-6; 19:14-8; 19:14-10; 19:14-12 and 19:49-2, plaintiff has observed that as an independent candidate he is not permitted an equal opportunity along with candidates nominated by major political parties to draw lots for first position on the official ballot for the general election. In substance, these five sections permanently reserve, to those political parties which poll 10 percent of the vote cast at the next preceding election for members of the General Assembly, the top horizontal rows on the machine ballots. Those political parties, who have nominated candidates, are permitted a drawing amongst themselves for the top positions. Then a separate

drawing is made among candidates nominated by petition, who will, in the order in which they are drawn, occupy positions subsequent to the first listed political parties. Thus the choice first positions, which will first meet the eye of the elector, are permanently secured to political parties solely upon numerical strength. Recognizing this disadvantage, plaintiff served written demand upon defendant, Nicholas V. Caputo, County Clerk of the County of Essex, State of New Jersey, that such equal opportunity for top ballot position be afforded him, which demand met with a negative reply, grounded in the purported authority granted to him by the above statutes.

A further study of N. J. Rev. St. 19:14–12 reveals that the appellee, Nicholas V. Caputo, as County Clerk, is empowered with discretion in positioning the names of the independent candidates on the official ballot for the General Election. There is no limit to appellee Caputo's power in *this regard, and he may, at his whim, select any position* for the plaintiff which may result in severe injury to plaintiff's candidacy. By written reply, Mr. Caputo has refused to offer appellant any equal opportunity along with other candidates to draw for first position.

On September 7, 1962, appellant commenced a Civil Action in the United States District Court, District of New Jersey, by filing a complaint and affidavit, alleging the above facts. This pleading urged that:

1. N. J. Rev. St. 19:13–4, prohibiting the use of the slogan "Life Long Democrat", exceeded the powers delegated to the States to regulate the manner of elections for members of the House of Representatives; denied him the equal protection of the laws granted under the Fourteenth Amendment of the United States Constitution; and deprived him of his liberty without due process of law under the Fourteenth Amendment of the Constitution of the United States; by virtue of the preference and advantages given to the major

political parties and the correspondent disadvantage to plaintiff.

2. N. J. Rev. St. 19:14–6; 19:14–8; 19:14–10; 19:14–12 and 19:49–2, granting first position to candidates of major political parties and subsequent positions to candidates nominated by petition, exceeded the powers delegated to the States to regulate the manner of elections for members of the House of Representatives, denied him the equal protection of the laws granted under the Fourteenth Amendment of the United States Constitution; and deprived him of his liberty without the due process of law required by the Fourteenth Amendment of the Constitution of the United States; by virtue of the preferences and advantages given to the major political parties and the correspondent disadvantages to plaintiff;
3. N. J. Rev. St. 19:14–12, delegating to the County Clerk the duty of positioning the names of candidates nominated by petition, exceeded the powers delegated to the States to regulate the manner of elections for members of the House of Representatives by re-delegating such discretionary powers; by delegating such discretion to a ministerial office and by delegating legislative power without adequate standards.

The complaint further alleged that an actual controversy existed and that there was no adequate remedy at law. The relief sought therein was for the convening of a Court as required by Title 28, U. S. Code, Section 2281; declaratory relief; injunctive relief and such other relief as the Court might deem just.

Upon the return day of an Order to Show Cause issued against defendants, on September 14, 1962, a Three Judge Court was convened and determined it had jurisdiction to hear and settle the controversy. Following a hearing in summary manner, with arguments presented by the attorney for the plaintiff, the Deputy Attorney General on

behalf of Secretary Burkhardt and County Counsel on behalf of the County Clerk, the Court rendered an oral decision to the effect that it had jurisdiction over the subject matter, that the relief sought should be denied and that the complaint should be dismissed.

The written decision of the Court is, as of the writing of this Jurisdictional Statement, unavailable in official form. The same is true of the Court's opinion.

THE QUESTIONS ARE SUBSTANTIAL.

This appeal raises questions touching upon fundamental constitutional issues with respect to the unexplored area of State regulation of general elections of candidates to federal office. Two substantial issues of State legislative power are presented. The first issue is concerned with the extent of the power of the State under Art. I, sec. 4, cl. 1 of the United States Constitution which grants powers to the States to regulate the manner of elections of members of the House of Representatives. The second deals with the protection afforded by the Fourteenth Amendment of the United States Constitution as against the legislative power of the State to regulate such elections.

These Acts of the New Jersey Legislature, on their face, grant preferences and advantages to one particular class of candidates to the resultant disadvantage of another class of candidates, within which appellant falls. In view of this apparent discrimination, it is felt that a *prima facie* case of unconstitutionality is presented. Therefore, it is urged that this Court should not affirm the decision below, nor dismiss this appeal, without argument on the merits of the case, at which time the unreasonableness of these Acts will be established.

Cases argued in this Court with respect to discriminatory state statutes governing elections, have considered the topics of racial discrimination, *Nixon v. Herndon*, 273 U. S. 536, 47 S. Ct. 446, 71 L. Ed. 759 (1927) and requisites to form a new political party, *MacDougall v. Green*, 335 U. S.

281, 69 S. Ct. 1, 93 L. Ed. 3 (1948). Of more recent date this Court decided the case of *Baker v. Carr*, 369 U. S. 186 which considered the application of the equal protection clause of the 14th Amendment to state legislative apportionment. It is submitted that the instant case is of equal and possibly greater weight and consequence, in view of the lack of precedent and the general importance of the questions raised.

Serious consideration by this Court is urged to settle these important matters concerning elections to federal office. The fundamental rights to vote for and be a candidate to such office are of such great consequence as to warrant this Court to spell out the exact scope of the state legislature's power, as that power relates to the controversy *sub judice*.

1. THE QUESTION OF NECESSARY AND INDISPENSABLE PARTIES, RAISED BY THE APPELLEES IN THE HEARING BELOW DID NOT OUST THE JURISDICTION OF THE COURT BELOW AND DOES NOT AFFECT THIS APPEAL.

At the hearing below, by means of brief and oral argument, appellees urged that the major political parties were indispensable parties and should have been joined. In rebuttal, your appellant urged that such political groups stood on no different a level of importance than the general electorate of the State; and occupied the status of proper parties only, in the determination of this case.

It is submitted that the interests of these major political parties cannot be distinguished from the interests of the general public. If the statutory provisions, presently under attack, are unconstitutional, then they are so *ab initio* and therefore no legal rights run in their favor which set their interests above and apart from those of other electors.

If the argument presented by appellee has merit, then it must follow that error was committed in not joining each and every candidate whose name is entitled to be printed on the official ballot and in addition thereto, those political groups and parties lesser in number, who are put at a dis-

advantage in the same manner as plaintiff is. But these persons are too numerous to join and would make the speedy relief sought by these proceedings virtually impossible.

The general purpose of the statutes here under attack, is to provide an organized machine ballot, properly displaying the names of the respective candidates. This is the very crux of the defense raised by respective counsel for the appellees. The rights of the major political parties and the general electorate are amply protected by the vigorous arguments on behalf of the Secretary of State and County Clerk. Therefore, the failure to join these parties was not such an error as to destroy the jurisdiction of the three judge court below.

Recognizing the importance of the issues raised, the Court below took jurisdiction over the subject matter, despite appellees' contentions on this point, and by its decision set forth judicial precedent. A denial of oral argument on this point in this Court would cast serious doubt as to the validity of that precedent.

2. THE QUESTION OF DENIAL OF EQUAL PROTECTION WITH RESPECT TO PARTY NAME AND PRINCIPLE IS SUBSTANTIAL AND IS DESERVING OF A REVIEW BY THIS COURT ON ORAL ARGUMENT.

A diligent and earnest research of legal authorities fails to reflect a precedent case which squarely touches upon the constitutional power of a state legislature to regulate party names and principles in elections for federal office. Yet the federal nature of the right plaintiff seeks to enforce by this suit, casts serious doubt upon the extent of that power. Surely there is a limit to such authority and yet no principle of law from either this Court or any other court discusses such a limit.

The issue has significant general importance when similar statutes of the sister states are examined. The statutes of Massachusetts, Mass. Gen. Laws, Ch. 53, sec. 8; New York, N.Y. Election Law, sec. 138 (2) and Pennsylvania, 25 P. S., sec. 2912, provide similar protection of the names of poli-

tical parties with reference to the ballot. Yet the precise constitutional question, here raised, has never been urged against these provisions. A complete argument and hearing before this Court could settle this uncertainty which, as above stated, has wide implications.

It was argued below that the purpose of such legislation is to properly identify and distinguish the various candidates. However, the wording of this Act of the New Jersey Legislature lends itself to a strict interpretation by the Secretary of State, which in turn, results in an absolute foreclosure of the use of a word in a political principle. This result bears no relation to the purpose of the Act and it therefore constitutes arbitrary and discriminatory action on the part of the appellee Secretary of State, which violates the basic equality so essential in our electoral process. The party name is not infringed upon, nor does confusion result from a departure away from strict interpretation of the statute. Thus, although the reason for the rule is satisfied, the rule itself continues to operate to the injury of the plaintiff.

The lack of necessity for the application and enforcement of this statute in the manner described above only adds emphasis to the need for full oral argument on the merits to adequately cover the issue of the reasonableness of its enforcement.

3. THE QUESTION OF THE CONSTITUTIONALITY OF THOSE ACTS OF THE NEW JERSEY LEGISLATURE PLACING THE MAJOR POLITICAL PARTIES IN FIRST POSITION ON THE OFFICIAL BALLOT IS A SUBSTANTIAL ISSUE OF CONSTITUTIONAL LAW WHICH SHOULD BE DECIDED UPON ORAL ARGUMENT BEFORE THIS COURT.

Your appellant considers this issue the most critical and important of all points raised by the pleadings and argument in the Court below. The five sections of Title 19, *Elections* under attack, grant and impose a special advantage upon the major political parties by permanently awarding them the first ballot position on the machine

ballot. No reason or purpose is stated in these acts to support such discrimination. Thus, serious doubt is at once cast upon these acts on their reading alone, which warrants full consideration on their merits.

Again, thorough research has failed to reflect any case in point which offers even the slightest hint of satisfactory solution. Such a fact only adds to the importance of a thorough evaluation of the contentions raised by this appeal, and an authoritative opinion by this Court.

In the hearing below, it was argued with much force by counsel for the appellees, that the preference shown was not of such significant import as to warrant judicial consideration. But this argument is strongly rebutted by the intricate and carefully laid scheme of preference in the five separate sections here under attack. Certainly the New Jersey Legislature considered the order of names of substantial merit to warrant the preference to be continually repeated in each of these sections.

Common sense dictates that the average voter, unfamiliar with the ballot and the machine itself, is very likely to hastily vote for the first named candidates solely by reason of their position. Thus the importance of equal right to draw for that position, takes on new meaning.

The general importance of the attack here made is even more amply illustrated by the existence of similar legislation in two sister states. See Mass. Gen. Laws, Ch. 54, sec. 42 and N. Y. Election Law, sec. 105. No case has been found which has considered the constitutionality of these provisions as is in the case at bar.

The Fourteenth Amendment provisions requiring equal protection of the laws and due process of law apply in the matter of political rights. *Davis* v. *Schnell*, 81 F. Supp. 872 (S. D., Ala. 1949) aff'd. 336 U. S. 933, 69 S. Ct. 749, 93 L. Ed. 1093 (1949). The right to relief under this Amendment is not diminished merely because the nature of the right sought to be enforced is political. *Swafford* v. *Hughes*, 321 U. S. 1, 64 S. Ct. 397, 88 L. Ed. 497 (1943), rehearing denied in 321 U. S. 804, 64 S. Ct. 778, 88 L. Ed. 1090.

Necessity should be the underlying objective where the exercise of the legislative power results in injurious discrimination. True, this statute has as its purpose the formulation of an organized ballot to speed the large electorate in casting their vote. But can such a purpose serve as the necessity in this case, where another method, even more fair in its operation is open to Legislature. Drawing by lots is concededly an adequate assurance of equality in assigning ballot position. But the classification of those candidates has no basis in reason or necessity. Thus the very equality sought after through the mechanics of a drawing by lot is lost by the very enactments which make the drawing possible.

The purpose of our electoral system is to afford the general electorate an unhindered method of casting their vote for that person who in their mind possesses the best qualifications for the particular office at hand. To defeat that purpose through means of discriminatory legislation is tantamount to the very destruction of our constitutional government and replacing it with a government ruled, not by reason and justice, but by sheer weight of political allegiance to political parties who are more powerful in number.

It is sincerely urged that the validity of these statutes be submitted before this Court for oral argument.

4. THE QUESTION PERTAINING TO DELEGATION OF POWER TO THE COUNTY CLERK TO REGULATE THE MANNER OF FEDERAL ELECTIONS IS SUBSTANTIAL AND SHOULD BE CONSIDERED BY THIS COURT ON ORAL ARGUMENT.

The position of appellees in the Court below should immediately be pointed out by way of introduction to this issue. Appellees there urged that no discretion was vested in the County Clerk in respect to the ballot position of the candidate nominated by petition by virtue of N. J. Rev. St. 19:14-12.

Yet this Act, in part, provides:

> "* * * The position which the names of candidates, and bracketed groups of names of candidates nominated by petitions for all offices, shall have upon the general election ballot, shall be determined by the county clerks in their respective counties. * * *" (L. 1949, c. 207, p. 677, Sec. 1).

The contention that discretion exists is further strengthened by a case decided by the Appellate Division of the Superior Court of New Jersey, *Perry* v. *Guiliano*, 46 N. J. Super. 550, 135 A. 2d 24 (1957). In the *Perry* case the Court denied the plaintiff a writ in lieu of the prerogative writ of *mandamus* by reason of discretion vested in the County Clerk, saying:

> "* * * For the court to intervene by its power in lieu of mandamus, the converse must appear, namely, that the statutory duty of the clerk, clear and unmistakable, would dictate the course sought by the appellants. It is from this plateau of certitude only, that such prerogative or statutory authority of the court may be exerted, for where, as here, the Legislature has ordained no clearly stated course of duty, the court may not interfere with the exercise of the discretion reserved to the county clerk. * * *" 135 A. 2d 24, 27 (1957).

These quotations above furnish strong indication that at least a question of interpretation does appear as to the existence of the discretion so asserted in appellants pleading and argument, which interpretation should be considered in a plenary manner by this Court.

If a delegation of such power to regulate the manner of elections to the House of Representatives is found to be existent, then appellants positions is simply that the power is legislative in nature and non-delegable by the State Legislature under the rule of law laid down by this Court in

Schechter Poultry Corporation v. United States, 295 U. S. 495, 55 S. Ct. 837, 79 L. Ed. 1570, 97 A. L. R. 947 (1934). But the question concerning the nature of the power vested in the States by U. S. Const., Art. I, sec. 4, cl. 1 is as yet undecided. By the existence of this case, opportunity exists to explore the nature of this power and the limits upon the exercise of that power by the State Legislature.

DENIAL OF THE INJUNCTION BELOW WAS AN ABUSE OF DISCRETION.

Despite the decision of the three judge court, sitting below, on the merits, it is urged that that Court abused its discretion by reason of the discriminatory nature appearing on the very face of the statutes attacked, the federal nature of the rights sought to be enforced, and for the final reason that the Court could have issued an order requiring certain and definite action to be taken by the appellees in order to assure the plaintiff of the constitutional rights he there sought to enforce.

It is submitted that the unequal and discriminatory character of the six acts in question has been amply evidenced by a careful reading of their respective provisions and the vigorous argument aimed at substantiating the unreasonable and arbitrary application of those provisions. The abuse of discretion is thus directed first of all at the very merits of the case.

The right sought to be enforced is constitutional in nature and has its foundation in U. S. Const., Art. I, sec. 4, cl. 1. *Ex parte Yarbrough*, 110 U. S. 651 (1884). *United States v. Classic*, 313 U. S. 299 (1941). This principle serves to emphasize the importance of a review of the denial by the Court below to exercise its injunctive authority.

In argument below, counsel for appellant described to the Court the method sought to be utilized with respect to equal opportunity to draw for first ballot position. By the method suggested, two separate drawings would be made, for political party candidates and for candidates nominated by petition, respectively. These drawings would determine

the rows of candidates names to be occupied on a horizontal line. Then each row would submit to a third drawing to determine their respective vertical ballot positions. Such a method would preserve party and group integrity and yet would afford equal opportunity to draw for the choice positions on the ballot. Therefore, it is submitted that the Court abused its discretion in not affording injunctive relief corresponding to the above plan.

CONCLUSION.

For the reasons stated it is respectfully submitted that the Supreme Court of the United States hear oral argument on this appeal in a plenary manner.

Respectfully submitted,

ABRAHAM I. HARKAVY,
Counsel for Plaintiff-Appellant.
100 Evergreen Place,
East Orange, New Jersey.

PROOF OF SERVICE.

I, Abraham I. Harkavy, attorney for Samuel Voltaggio, appellant herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on OCT 16 1962 I served copies of the foregoing Jurisdictional Statement on the several parties thereto, as follows:

1. On Nicholas V. Caputo, County Clerk of the County of Essex, State of New Jersey, and Robert J. Burkhardt, Secretary of State of the State of New Jersey, by mailing copies in duly addressed envelopes, with first class postage prepaid, to their respective attorneys of record, as follows:

To Nicholas V. Fernicola, Esq., attorney for appellee Nicholas V. Caputo, at Hall of Records, Newark, New Jersey.

To Arthur J. Sills, Esq., attorney for appellee Robert J. Burkhardt, State House Annex, Trenton, New Jersey.

APPENDIX "A"

New Jersey Laws of 1930, Chapter 187, sec. 113, p. 721.
N. J. Rev. St. 19:13-4.

19:13-4. Contents of petition

Such petition shall set forth the names, places of residence and post office addresses of the candidates for the offices to be filled, the title of the office for which each candidate is named, that the petitioners are legally qualified to vote for such candidates and pledge themselves to support and vote for the persons named in such petition and that they have not signed any other petition of nomination for the primary or for the general election for such office.

In the case of a petition or petitions nominating electors of president and vice president of the United States, the names of the candidates for president and vice president for whom such electors are to vote may be included in the petition or petitions, but the petition or petitions shall not include the names of any candidates for president or vice president who have been nominated at a convention of a political party as defined by this title.

The petition shall also state in not more than three words the designation of the party or principles which the candidates therein named represent; but such designation shall not contain the designation, name, derivative, or any part thereof as a noun or an adjective of any political party entitled to participate in the primary election.

The petition shall also include the request that the names of the candidates and their designations of party or principles be printed upon the ballots to be used at the ensuing general elections.

No such petition shall undertake to nominate any candidate who has accepted the nomination for the primary for such position. L. 1930, c. 187, sec. 113, p. 721.

New Jersey Laws of 1930, Chapter 187, sec. 120, p. 723 (as amend. L. 1947, c. 101, p. 502, sec. 2); N. J. Rev. St. 19:14-6.

19:14-6. Column designation; accompanying instructions

In each column, immediately below the six-point rule, shall be printed the proper word or words to designate the column, to be known as the "column designation."

In the columns at the extreme left shall be printed the name of each of the political parties which made nominations at the next preceding primary election, directly under which shall appear the words "to vote for any candidate whose name appears in the column below, mark a cross ×, plus + or check √ in the square at the left of the name of such candidate. Do not vote for more candidates than are to be elected to any office." Such columns shall be three inches in width.

The column next to the right of such columns shall be designated "personal choice," under which shall appear the words "in the blank column below, under the proper title of office, the voter may write or paste the name of any person for whom he desires to vote, whose name is not printed on this ballot, and shall mark a cross ×, plus + or check √ in the square at the left of such name. Do not vote for more candidates than are to be elected to any office." There shall also be the same instructions regarding electors of president and vice-president which now appear at the head of all other columns. This column shall be four inches in width.

The remaining column or columns, as the case may be, shall each be designated "Nomination by Petition," under which shall be printed the words "to vote for any candidate whose name appears in the column below mark a cross ×, plus + or check √ in the square at the left of the name of such candidate. Do not vote for more candidates than are to be elected to any office." These columns shall be four inches in width.

Below the column designations and accompanying instructions and not more than one and one-half inches below the six-point diagram rule and parallel thereto, shall be printed a six-point diagram rule extending across the entire ballot from one four-point rule to the other. As amended L. 1947, c. 104, p. 320, § 2.

Effective May 6, 1947.

New Jersey Laws of 1930, Chapter 187, sec. 141, p. 735 (as amend. L. 1951, c. 315, p. 1120, sec. 1); N. J. Rev. St. 19:14-8.

19:14-8. Arrangement of titles of office and names of candidates in party columns and personal choice columns

In the columns of each of the political parties which made nominations at the next preceding primary election and in the personal choice column, within the space between the two-point hair line rules, there shall be printed the title of each office to be filled at such election, except as hereinafter provided.

In counties having twelve or less freeholders, such titles of office shall be arranged in the following order: electors of President and Vice-President of the United States; member of the United States Senate; Governor; member of the House of Representatives; member of the State Senate; members of the General Assembly; sheriff; county clerk; surrogate; register of deeds and mortgages; county supervisor; members of the board of chosen freeholders; coroners; mayor and members of municipal governing bodies, and any other titles of office. In counties having more than twelve freeholders, such titles of office shall be arranged in the following order: electors of President and Vice-President of the United States; member of the United States Senate; Governor; member of the House of Representatives; member of the State Senate; members of the General Assembly; sheriff; county clerk; surrogate; register of deeds and mortgages; coroners; county supervisor; members of the board of chosen freeholders; mayor and members of municipal governing bodies, and any other titles of office. Above each of such titles of office, except the one at the top, shall be printed a two-point diagram rule in place of the two-point hair line rule. Below the titles of such offices shall be printed the names of the candidates for the offices.

The arrangement of the names of candidates for any office for which more than one are to be elected shall be determined in the manner hereinafter provided, as in the case of candidates nominated by petition.

When no nomination for an office has been made the words "No Nomination Made" in type large enough to fill the entire space or spaces below the title of office shall be printed upon the ballot.

Immediately to the left of the name of each candidate, at the extreme left of each column, including the personal choice column, shall be printed a square, one-quarter of an inch in size, formed by two-point diagram rules. In the personal choice column no names of candidates shall be printed.

To the right of the title of each office in the party columns and the personal choice column shall be printed the words "Vote for . . ." inserting in words the number of persons to be elected to such office. As amended L. 1951, c. 315, p. 1120, § 1.

Effective July 17, 1951.

New Jersey Laws of 1930, Chapter 187, sec. 142, p. 736 (as amend. L. 1951, c. 315, p. 1121, sec. 2); N. J. Rev. St. 19:14–10.

19:14–10. Nomination by petition columns; arrangement of titles of offices; groupings

In the column or columns designated as nominations by petition, within the space between the two-point hair line rules, there shall be printed the title of each office for which nominations by petition have been made.

In counties having twelve or less freeholders, such titles of office shall be arranged in the following order: electors of President and Vice-President of the United States; member of the United States Senate; Governor; member of the House of Representatives; member of the State Senate; members of the General Assembly; sheriff; county clerk;

surrogate; register of deeds and mortgages; county supervisor; members of the board of chosen freeholders; coroners; mayor and members of municipal governing bodies, and any other titles of office. In counties having more than twelve freeholders, such titles of office shall be arranged in the following order: electors of President and Vice-President of the United States; member of the United States Senate; Governor; member of the House of Representatives; member of the State Senate; members of the General Assembly; sheriff; county clerk; surrogate; register of deeds and mortgages; coroners; county supervisor; members of the board of chosen freeholders; mayor and members of municipal governing bodies, and any other titles of office.

Above each of the titles of office, except the one on the top, shall be printed a two-point diagram rule in place of the two-point hair line rule. Below the titles of each of the offices shall be printed the names of each of the candidates for each of such offices followed by the designation or designations mentioned in the petitions filed.

Immediately to the left of the name of each candidate, at the extreme left of the column, shall be printed a square, one-quarter of an inch in size formed by two-point diagram rules.

The names of candidates for any office for which more than one are to be elected shall be arranged in groups as presented in the several certificates of nominations or petitions, which groups shall be separated from other groups and candidates by two two-point hair line rules.

To the right of the title of each office shall be printed the words "Vote for _____." inserting in words the number of candidates to be elected to such office. As amended L. 1951, c. 315, p. 1121, § 2.

Effective July 17, 1951.

New Jersey Laws of 1930, Chapter 187, sec. 144, p. 737 (as amend. L. 1942, c. 50, p. 281, sec. 7; L. 1948, c. 2, p. 40, sec. 21; L. 1949, c. 207, p. 677, sec. 2); N. J. Rev. St. 19:14-12.

19:14–12. Drawing for position on ballot; procedure; public announcement; bracketing names

The county clerk shall draw lots in his county to determin. which columns the political parties which made nominations at the next preceding primary election shall occupy on the ballot in the county. The name of the party first drawn shall occupy the first column at the left of the ballot, and the name of the party next drawn shall occupy the second column, and so forth.

The position which the names of candidates, and bracketed groups of names of candidates nominated by petitions for all offices, shall have upon the general election ballot, shall be determined by the county clerks in their respective counties.

The manner of drawing the lots shall be as follows: paper cards, of the same size, substance and thickness, with the names of each political party written thereon, shall be placed in a covered box with an aperture in the top large enough to admit a man's hand and to allow the cards to be drawn therefrom. The box shall be well shaken and turned over to thoroughly intermingle the cards. The county clerk or his deputy shall at his office, draw from the box each card separately without knowledge on his part as to which card he is drawing.

The person making the drawing shall make public announcement at the drawing of each name, the order in which name is drawn and the office for which the drawing is made.

Where there is but one person to be elected to an office, the names of the several candidates who have filed petitions for such office shall be written upon cards of the same size, substance and thickness. The cards shall be placed in a covered box with an aperture in the top large enough to admit a man's hand and to allow the cards to be drawn therefrom. The box shall be turned and shaken thoroughly to mix the cards and the cards shall be withdrawn one at a time.

When there is more than one person to be elected to an office where petitions have designated that certain candi-

dates shall be bracketed, the position of such bracketed names on the ballot (each bracketed group to be treated as a single name), together with individuals who have filed petitions for such office, shall be determined as above described.

Any legal voter of the county or municipality, as the case may be, shall have the privilege of witnessing the drawing.

The name or names of the candidate or bracketed group of candidates first drawn from the box shall be printed directly below the proper title of the office for which they were nominated, and the name or names of the candidate or bracketed group of candidates next drawn shall be printed next in order, and so on, until the last name or bracketed group of names shall be drawn from the box.

The arrangement of names of any bracketed group of candidates for any office for which more than one are to be elected shall be printed in the same order on the ballot as they were arranged on the petition of nomination.

The drawing for the positions which the names of candidates and bracketed groups of names of candidates, nominated by petition for office, and for the columns which the political parties which made nominations at the next preceding primary election shall occupy upon the general election ballot, shall be held at three o'clock in the afternoon of the fiftieth day prior to the day of the general election. As amended L. 1942, c. 50, p. 281; § 7; L. 1948, c. 2, p. 40, § 21; L. 1949, c. 207, p. 677, § 1.

Effective May 23, 1949.

New Jersey Laws of 1935, Chapter 302, sec. 6, p. 949, suppl. to L. 1930, c. 187, p. 671 (as amend. L. 1940, c. 137, p. 301, sec. 1; L. 1941, c. 163, p. 519, sec. 1; L. 1944, c. 127, p. 350, sec. 1; L. 1945, c. 70, p. 348, sec. 1; L. 1946, c. 17, pp. 48, 50, secs. 1, 2; L. 1948, c. 240, p. 1081, sec. 1.) N. J. Rev. Stf. 19:49–2.

19:49-2. Printing official ballots; ballots in counties where voting machines are used; position of candidates' names on ballot

All official ballots shall be printed on clear white paper or cardboard of such form and size as will fit the ballot frames of the machines, printed in black ink in type as large as the space will reasonably permit; *provided, however,* that any public question which shall be placed on the ballot shall be printed in red ink and above any public question to be voted upon by the voters of the entire State there shall be printed, also in red ink, a description of the public question, which description shall not exceed six words and shall be printed in type as large as is practicable. Party nominations shall be arranged on each voting machine, either in columns or horizontal rows; the caption of the various ballots on the machines shall be so placed on the machines as to indicate to the voter what push knob, pointer, lever or other device is to be used or operated in order to vote for the candidates or candidate of his choice. The providing of the official ballots and the order of the precedence and arrangement of parties and of candidates shall be as now required by law; *provided, however,* that in those counties where voting machines are used; the specifications for the printing of the official ballots shall be drawn by the county clerk.

For the primary election for the general election in all counties where voting machines are or shall be used, all candidates who shall file a joint petition with the county clerk of their respective county and who shall choose the same designation or slogan shall be drawn for position on the ballot as a unit and shall have their names placed on the same line of the voting machine; *and provided further,* that all candidates for municipal or party office in municipalities in counties where voting machines are or shall be used who shall file a petition with the clerk of their municipality bearing the same designation or slogan as that of the candidates filing a joint petition with the county clerk as aforesaid, may request that his or her name be placed on the

same line of the voting machine with the candidates who have filed a joint petition with the county clerk as aforesaid by so notifying the county clerk of said county in writing within two days after the last day for filing nominating petitions and thereupon the county clerk shall forthwith notify the campaign manager of such candidates filing a joint petition as aforesaid of said request, and if the said campaign manager shall file his consent in writing with the said county clerk within two days after the receipt of said notification from said county clerk, the clerk of said county shall place the name of such candidate on the same line of the voting machine on which appears the names of the candidates who have filed the joint petition as aforesaid; *provided, also*, that any candidate filing a petition with the Secretary of State may request that his or her name be placed on the same line of the voting machine with the candidates who have filed a joint petition with the county clerk as aforesaid by so notifying the county clerk of said county in writing within two days after the last day for filing nominating petitions, and thereupon the county clerk shall forthwith notify the campaign manager of such candidates filing a joint petition as aforesaid of said request, and if the said campaign manager shall file his consent in writing with the said county clerk within two days after the receipt of said notification from said county clerk, the clerk of said county shall place the name of such candidate on the same line of the voting machine on which appears the names of the candidates who have filed the joint petition as aforesaid. As amended L. 1940, c. 137, p. [illegible]; 1: L. 1941, c. 163, p. 519, 1: L. 1944, c. 127, p. 350, 1: L. 1945, c. 70, p. 348, 1: L. 1946, c. 17, pp. 48, 50, 1, 2; L. 1948, c. 240, p. 1081, 1.

Effective July 16, 1948.